



MAYOR AND COUNCIL AGENDA

NO. 17 DEPT.: Community Planning and Development Services DATE PREPARED: 7/26/05
STAFF CONTACT: A. Chambers, AICP, Director/D. Mellander, Planner III FOR MEETING OF: 8/1/05

SUBJECT: Worksession on proposed Adequate Public Facilities Ordinance and APFO Manual.

RECOMMENDATION: Review draft APFO standards and ordinance and determine revisions, if any, and direct staff to prepare additional analysis and timeline for the APFO adoption process.

DISCUSSION: The October 24, 2003 Public Hearing Draft of the Adequate Public Facilities Ordinance and Manual was the culmination of work that began in June 2002 with the initial Duncan Associates Report. The APFO Public Hearing Draft Ordinance did not go to public hearing due to concerns about the implementation and level of service standards. In recent months, the Mayor and Council decided to renew consideration of an APFO, and staff has provided additional information through various memos and agenda sheets. On June 20, 2005, the Mayor and Council held a work session on the APFO at which time certain amendments to the ordinance were discussed but without reaching apparent consensus on many specifics such as the full range of facilities, the definitions of service adequacy, and other important provisions of the ordinance. Subsequently, after the Mayor and Council heard comments on July 11, 2005, it was decided to postpone the APFO Public hearing and conduct another APFO worksession. A public hearing has been tentatively scheduled for September 2005; however, given the complexity and importance of this subject and the additional analysis required to support the Mayor and Council's deliberations and discussions, the Mayor and Council may instead wish to schedule another worksession at this time.

Staff has compiled a briefing book that contains the October 24, 2003 Public Hearing Draft of the Adequate Public Facilities Ordinance and Manual, a matrix with information about APFOs, TOA maps and school maps, past agenda sheets and staff memos, including attachments, and literature articles on APFO ordinances. The June 20, 2005 Mayor/Council Agenda sheet provides an overview of the APFO ordinance. The Planning Commission's recommendation on APFO is included in the December 11, 2004 memo to the Mayor and Council. Montgomery County's Annual Growth Policy Report also provides an overview of the issues faced by the County as they implemented an APFO.

The October 24, 2003 Public Hearing Draft of the Adequate Public Facilities Ordinance recommended levels of service (LOS) standards for school capacity, fire protection, and water and sewer service. The Comprehensive Transportation Review (CTR), adopted by the Mayor and Council on October 4, 2004 applies APF standards for development projects that account for

alternative transportation measures such as pedestrians, bicycles, and transit. The CTR also allows for consideration of differing traffic LOS within Transit-Oriented Areas (TOA's).

As the Mayor and Council continue their review of the APFO ordinance, several key questions need to be discussed and answered prior to finalizing the draft zoning text amendments and APFO Standards Manual, as follows.

These questions are:

APFO Ordinance

1. What facilities should be included in the APFO? (See Matrix)
 - a. Water
 - b. Sewer
 - c. Schools
 - d. Transportation
 - (1) Roads
 - (2) Sidewalks
 - (3) Bicycle paths
 - (4) Transit
 - e. Parks
 - f. Fire
 - g. Police
 - h. Other
2. Are there areas within the City that should be exempt from an APFO standard, such as the Metro Performance Districts or TOAs?

APFO Standards (See Matrix Attachment C)

1. What development activities, if any, will be exempt from an APFO due to minimal impact or no impact? For example, age restricted residential units, a business incubator, hotel, etc.
2. Does the city want to coordinate with the Montgomery County Public Schools (MCPS) and the County on a school APFO? What are the implications of the City adopting a stricter school APFO standard than Montgomery County?
3. What should be the LOS thresholds for each facility category?
4. What are the facility requirements needed to attain LOS adequacy, the feasibility and cost of meeting those requirements, and how will facilities be paid for?
5. Are there any changes that need to be made to the adopted CTR?

Next Steps: There are three potential avenues based on whether or not significant revisions are made to the ordinance.


- (1) If there are significant revisions to the APFO ordinance and manual, based upon the Mayor and Council's direction, the ordinance would need to go back to the Planning Commission for review. Note: It may take some time to develop new standards for certain facilities, e.g. police.
- (2) If the Mayor and Council require additional information and analysis to support its deliberations, it is recommended that another worksession be held in late September, instead of a public hearing.
- (3) If there are no major changes to the October 24, 2003 zoning ordinance amendments and manual, the Mayor and Council could conduct a public hearing in September/October to adopt the zoning text amendments by ordinance and the standards by resolution.

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7/28/05
DATE:

LIST OF ATTACHMENTS:

- A. APFO Manual, Public Hearing Draft 10/24/03
- B. Adequate Public Facilities Ordinance -- Public Hearing Draft 10/24/03 .
- C. APFO Matrix
- D. TOD Maps
- E. School Facility Maps
- F. July 25, 2005 Memo to Mayor and Council
- G. July 15, 2005 Memo to Mayor and Council
- H. June 20, 2005 Mayor and Council Agenda Item
- I. Planning Commission recommendation of December 11, 2003
- J. May 20, 2004 Mayor and Council Agenda Item-worksession on Duncan Report
- K. Article, "APFO --what is it?"
- L. Article, National Association of Realtors, "Part II: Public Facilities and infrastructure.

- M. Article, Mark S. White, PAS Report, "Adequate Public Facility Ordinances and Transportation Management."
- N. Article, Richard Ducker, School of Government, "Adequate Public Facility Criteria: Linking growth to School Capacity."
- O. Article, "Chapter 4, Types of Contemporary Growth Management Regulations."
- P. Article, David Levinson, "The Limits to Growth Management: Development Regulation in Montgomery County, Maryland," 1996
- Q. Report: "Montgomery County Annual Growth Policy." August 2003, Final Draft
- R. City of Laurel, APFO provisions from the Subdivision Regulations
- S. Article, Martin McCullough, Municipal Lawyer, "Due Process and Takings Concerns in Municipal Growth Management, May/June 2004."
- T. Maryland Department of Planning, "Adequate Public Facilities", June 1996.

Adequate Public Facilities Standards Rockville, Maryland

Public Hearing Draft

October 24, 2003

Table of Contents

I. Introduction	1
II. Process	2
<i>II.A. De Minimis Provisions</i>	2
<i>II.B. Development Projects and Capacity Schedules</i>	3
<i>II.C. Approved, Not-Completed Development Projects</i>	4
III. Levels of Service	4
<i>III.A. Transportation</i>	4
(i) Auto	5
(ii) Non-Auto	7
(a) Bicycle	7
(b) Pedestrian	7
(c) Transit	7
(iii) Impact Mitigations	8
(iv) Credit System	8
(v) Regulatory Implementation	8
<i>III.B. Schools</i>	9
(i) Levels of Service	9
(ii) Regulatory Implementation	10
<i>III.C. Fire Protection</i>	11
(i) Levels of Service	11
(ii) Regulatory Implementation	11
<i>III.D. Water Supply</i>	12
(i) Levels of Service	Error! Bookmark not defined.
(ii) Regulatory Implementation	12
<i>III.E. Sewer Service</i>	12
(i) Levels of Service	12
(ii) Regulatory Implementation	12
Sources	13
Appendix A: Definitions	14
Appendix B: Map of Transit-Oriented Areas	15
Appendix C: High School Cluster Boundaries and School Capacity Projections	
Appendix D: Map of Fire and Rescue Service Response Times	

I. Introduction

One of the goals of the Mayor and Council Strategic Plan for 2002-07 is the adoption of an adequate public facilities provision in the Zoning Ordinance. The following document, in conjunction with a proposed text amendment to the Zoning Ordinance, will establish procedures and standards necessary to ensure that adequate public facilities and services are provided concurrent with new development and redevelopment.

The Adequate Public Facilities Ordinance (APFO) tests the capacity of public facilities based on current and projected data available at the time of development application, as outlined in Table I. Net available system capacities¹ will change as 1) new projects come into the system, 2) other projects are completed, 3) some projects are abandoned, and 4) new facilities are programmed in the capital budget. APFO provisions are integrated into the development review process to establish a benchmark for the availability of capacity at the time of project review. Once a development project is approved, capacity of public facilities required by that project is reserved, provided the project remains on its service commitment, as determined at the time of project approval.

The APFO will be applied to all development projects that exceed *de minimis* provisions as established in Section II.A. Adequacy shall first be considered at the earliest stage in the application process so as to assure adequacy of public facilities for the project and to provide guidance to the applicant as to how the APFO requirements can be met if deficiencies are identified.

TABLE I: APFO Approval Types

Type	Application	Scope of Review
Initial	Concept Plans for Comprehensive Planned Developments (CPDs), and Planned Residential Unit developments (PRUs), Some Special Exceptions (SPXs)	Transportation Impact (may exclude some site-specific design review that requires more detailed design), Schools, Fire, Water, and Sewer.
Detailed	Use Permit (USE), some SPXs, Detailed Applications, Preliminary Subdivision Plans	Requirements of Initial Approval (if not previously approved) plus transportation analyses that require detailed site-specific design.
Final	Building Permit	Water and Sewer evaluated by City to ensure that capacity is still available. Other detailed approval elements are not retested.

All new development applications filed after the effective date of this Ordinance are subject to its provisions. Any development applications filed prior to the effective date will be reviewed based on the standards and requirements in effect at that time.

¹ Net available system capacity is the total amount of capacity minus all existing background development, development with building permits, and development approved but not yet permitted.

II. Process

Determining whether or not a development project provides “adequate” public facilities is dependent on the City’s standard level of performance of a public facility, which is referred to as a Level of Service (LOS). The impacts of a development project must not be so great that they negatively impact citizens’ quality of life beyond certain thresholds. The thresholds, or standards, have been established by the City for various public facilities (transportation, schools, fire protection, water supply, and sewer) and are outlined in detail in the following sections.

If the impact of a development project on any public facility LOS is so small that accounting for it is unreasonable or administratively impracticable, it is not subject to an APFO review. Projects that have minimal or no impact on the public facilities are referred to as “de minimis” and are outlined in *Section II.A. De Minimis Provisions* below.

The following are procedures used by the City to ensure that adequate public facility systems exist during and after a development project:

- During review of any development project, the City will check to ensure that capacities of public facility systems are adequate, as defined in this document, through all phases, including at the completion of the development.
- To ensure that approved but not yet built development does not use all of the available capacity required to maintain adequate LOS, the City will approve firm schedules for the implementation of multi-phase development projects. In other cases, the expiration dates established in the Zoning Ordinance for the particular type of development application will determine the service commitment.
- If a development project does not provide adequate public facilities, it is either denied or approved with special conditions.

This general framework is described in further detail in the body of this document.

II.A. De Minimis Provisions

Different development projects trigger different public facilities considerations. The following table outlines the *de minimis* provisions and indicates when a particular public facility review is required.

Table II: De Minimis Provisions

	Transportation	Schools	Fire	Water	Sewer
1 Single-family detached residence	No	N/A	No	Yes	Yes
Development Projects other than 1 Single-family detached residence	Yes	N/A	Yes	Yes	Yes
<12 School Students	N/A	No	N/A	N/A	N/A
> 12 School Students	N/A	Yes	N/A	N/A	N/A

II.B. Development Projects and Capacity Schedules

Table III outlines the stages at which different public facilities are evaluated against prior approvals and when capacity is reserved. If a developer fails to meet the predetermined service commitment for use of reserved capacity, APFO approval lapses.

TABLE III: Facility Capacity Schedules

Facility Type	Capacity Schedule
Transportation	Application approval reserves transportation capacity; capacity moves from the reserved to the used category once staff determines that the site is fully operational.
Schools	Subdivision approval or use permit approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.
Fire	Application approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.
Water	Subdivision approval or use permit approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.
Sewer	Subdivision approval or use permit approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.

A binding service commitment attached to the validity periods, as defined in the Zoning Ordinance or as approved for multi-phase projects, is a critical component of the system for reserving capacity for proposed projects. The consequence of failure to comply with the validity period or service commitment is that the developer is required to reapply for that capacity before proceeding with the project or with the uncompleted portions of the project.

For a multi-phase project, the service commitment allocates the capacity for a set period of time for specific phases. Capacity allocations expire automatically according to the service commitment unless the original approving body determines that an extension is warranted.

II.C. Approved, Not-Completed Development Projects

There are several multi-phase projects in the City that have received development approvals prior to this APFO. At the time these projects were approved, there was no requirement for a completion schedule.

Development projects approved under a special development procedure (CPD, PDP, RTH, PRU, Cluster Development, Variable Lot Size, I-3 Optional Method of Development) is subject to review and implementation of adequate public facilities as specified in the following provisions. The length of time for which facilities are deemed adequate under these approvals may vary for each public facility. The validity period for determining the adequacy of public facilities is as follows:

- a. The number of years specified in the original approval, if explicitly stated; or
- b. If the original approval does not specify the number of years that public facilities are deemed adequate, the validity period ends fifteen (15) years from (effective date of APFO) if all required public improvements have not been provided. If all required public improvements have been provided, an additional 5 years shall be granted.

The Mayor and Council may approve up to two (2) five-year extensions to implement the approved development project when the applicant demonstrates that development of the property has proceeded with due diligence but that factors beyond the control of the developer such as a economic conditions or change in governmental regulations have precluded development of the property within the approved time frame or that the project is substantially complete.

If the adequate public facility approval is no longer valid, then the development must retest the relevant public facilities, with credit for provided facilities, prior to approval of subsequent detailed applications, use permits, or final record plats.

III. Levels of Service

III.A. Transportation

Currently, mobility throughout the City of Rockville is limited due to traffic congestion generated by local and regional trips. Regional growth, combined with anticipated development activity within the City will stress the existing and proposed infrastructure. In addition, Rockville's roadway system is essentially built out. Locations that currently contain the worst congestion levels generally require multi-million dollar improvements to solve the problem. Alternatively, these areas will require an increased reliance on non-vehicular improvements to increase the capacity of a multi-modal transportation system. However, in less densely developed areas of the City where traffic operates at acceptable LOS, many small-scale intersection improvements can still occur.

The City's Master Plan provides a vision for a shift from an auto-centric transportation system to a multi-modal system that serves motorists, bicyclists and pedestrians. Through stated goals and objectives, it aims to create a transportation system that is safe and accessible, provides mobility for all users, and accommodates anticipated local and regional demands. To address all modes of transportation, the City implements a Comprehensive Transportation Review (CTR) for new development projects. The CTR focuses on auto, transit, pedestrian, and bicycle levels of service, as well as Transportation Demand Management (TDM) programs. The CTR requires a Transportation Report (TR) be submitted with all development applications. The TR consists of

five components: an examination of existing conditions, a site access and circulation analysis, a multi-modal analysis, an automobile traffic analysis, and proposed mitigation. The analysis included in the TR is based on the type of development project and projected site trip generation(s). Development projects in the City that generate more than 50 peak hour auto trips, as defined in the CTR, must submit all five (5) components of the TR. Development projects that generate less than 50 peak hour auto trips do not need to provide the automobile traffic analysis. The TR report is used to test if the development project meets APF standards.

Development exceeding *de minimis* provisions must be tested for adequate public transportation facilities. The following are principles used by the City to ensure that adequate transportation facilities exist during and after a development project:

- In order to address increased congestion and to encourage development activity where viable transportation options exist, the City has established Transit-Oriented Areas (TOAs) and non-Transit-Oriented Areas (non-TOAs), as approved by the Mayor and Council. Areas defined as TOAs must include existing or programmed facilities that provide multi-modal access. TOAs include areas 7/10ths of a mile accessible walking distance from existing and programmed Metro and MARC stations and programmed fixed-guideway transit stations on dedicated transit rights-of-way. A map of the TOAs is attached in Appendix B and shows walking distances of 7/10ths of a mile from fixed-guideway transit stations.
- Transit-Oriented Areas (TOAs) and non-Transit-Oriented Areas (non-TOAs) have different thresholds. More congestion is allowed in TOAs, where viable multi-modal options exist. Stricter congestion standards are applied in non-TOAs where less congestion is mandated.
- Development projects in TOAs can claim larger amounts of credit for multi-modal transportation improvements and TDM programs and/or contributions than development projects in non-TOAs.

At the preliminary plan, detailed application, or use permit review stage there must be a detailed transportation capacity analysis following the CTR. If transportation facilities are found to be inadequate, as defined in the following sections, the proposed project will be denied. If transportation facilities are found to be adequate, or adequate subject to specified conditions, the project may be approved. Mitigation and other physical improvements may be required to meet APF standards through the normal development review process, as described further in Section III.A.iii, *Impact Mitigations*. Capacity for a development will be reserved after approval.

(i) Auto

Auto capacity shall be considered inadequate if a proposed development project's forecasted traffic plus background traffic in the defined study area exceeds any of the intersection volume/capacity (hereafter referred to as v/c) ratios outlined in Table IV. The traffic study area for developments that generate more than 50 site trips is defined in the CTR. The study area for developments that generate fewer than 50 site trips but that exceed *de minimis* provisions will be determined on a case-by-case basis in consultation with Transportation staff.

**TABLE IV: Intersection LOS Thresholds by Road Classification
in the Auto Study Area for Non-TOAs**

Road Classification	Volume/Capacity (v/c) Ratio	LOS
Primary Residential – Class II (Minor Collector), Secondary Residential, Secondary Industrial	Less than 0.80	C
Major Arterials (Except where two Major Arterials connect), Minor Arterials, Primary Residential – Class I (Major Collector), Primary Industrial	Less than 0.90	D
Business District roads, freeway ramps, and for locations where two Major Arterials intersect	Less than 1.0	E

Exceptions:

- At intersections where two or more roads with different classifications meet, the LOS threshold will be established based on the roadway classification that allows more congestion.
- For development activity whose impact is a v/c ratio increase of 0.01 or more at intersections where the LOS for “background” traffic conditions exceed the intersection LOS thresholds for non-TOAs or TOAs, new development projects shall:
 - Mitigate at least half of the impact if their impact is 0.01-0.06.
 - Mitigate their impact to 0.03 or less if the impact is greater than 0.06.
- Within TOAs and their major access routes, LOS thresholds shall not exceed the following v/c ratios outlined in Table V:

**TABLE V: Intersection LOS Thresholds by Road Classification
in the Auto Study Area for TOAs**

Road Classification	Volume/Capacity (v/c) Ratio	LOS
Primary Residential – Class II (Minor Collector), Secondary Residential	Less than 0.90	D
Major Arterials, Minor Arterials, Primary Residential – Class I (Major Collector), Primary Industrial, Business District and Secondary Industrial	Less than 1.0	E

The following circumstances also constitute an impact and may require mitigation:

- A deterioration in intersection LOS by one level (0.10 v/c) or greater;
- Impacts that cause the City’s criteria for acceptable traffic volumes on residential streets to be exceeded;
- Development projects that contributes significantly toward the need for, or modification of, a traffic signal or other traffic control devices as established in the Manual on Uniform Traffic Control Devices or determined by the Director of Public Works or designee;

- The capacity of a turning lane is exceeded as established in the Policy on Geometric Design of Highways and Streets (AASHTO) or determined by the Director of Public Works or designee;
- Contradiction of principles of proper design and location for driveways, medians and median openings, service drives, and similar facilities; and
- Any condition creating or aggravating a safety hazard for motorists, pedestrians, or bicyclists.

(ii) Non-Auto

The following summarizes standards for determining the adequacy of bicycle, pedestrian, and transit facilities. These standards are based on system accessibility, facility design, and geographic location. The CTR establishes respective study areas for the three modes.

(a) Bicycle

Bicycle facilities shall be considered adequate if:

- There is availability of bicycle facilities on the site frontage, or in some cases, through the site, as identified in the Bicycle Master Plan.
- At signalized intersections within the bicycle study area where the City controls signal timing, safety ratings are rated at least adequate, as defined in the CTR.
- At intersections within the bicycle study where signals are not controlled by the City, the intersection safety rating is at least adequate as defined in the CTR, excluding the factor of signal timing that allows for intersection crossing.

Exceptions: If a CIP project exists that would require the subsequent removal of a pedestrian or bikeway facility required under the APFO, the developer may contribute an equivalent amount of that facility being built toward the future project to be incorporated into the CIP as approved by the City.

(b) Pedestrian

Pedestrian facilities shall be considered adequate if:

- Sidewalks along the frontage of the site are constructed according to the City Standards and Details for Construction. At signalized intersections within the pedestrian study area where the City controls signal timing, safety ratings are rated at least adequate, as defined in the CTR.
- At intersections within the pedestrian study area where signals are not controlled by the City, the intersection safety rating is at least adequate as defined in the CTR, excluding the factor of signal timing that allows for intersection crossing time.

(c) Transit

Transit facilities shall be considered adequate if:

- Bus shelters, benches, or concrete pads are provided at all existing and planned bus stops along the site frontage, as approved by Department of Public Works in coordination with Montgomery County Department of Public Works and Transportation (DPWT) or Washington Metropolitan Transit Authority (WMATA - Metrobus). The type of facility required for adequacy is based on projected daily ridership volumes as defined in Table VI below:

TABLE VI: Required Transit Facilities

Projected Daily Ridership*	Required Facility
0 –10 persons	Concrete Pad
11-25 persons	Bench plus Concrete Pad
More than 25 persons	Bus Shelter plus Bench plus Concrete Pad

**Based on existing ridership plus additional ridership projected for the future in the transit study area.*

If a transit stop(s) is not along the site frontage, bus shelters, benches, or concrete pads are provided at the nearest existing or planned bus stop to the site within the transit study area, as defined in the CTR. The type of facility required for adequacy is based on projected daily ridership volumes as defined in Table VI above.

(iii) Impact Mitigations

If transportation impacts or capacity deficiencies are identified through the APFO process, mitigation may be applied to offset the negative impacts of development activity on the transportation network. To ensure that an improvement for one mode does not have negative impacts on other modes, mitigation of conditions that do not meet APFO standards must address all modes of transportation.

Mitigations may include retrofitting City streets so that they 1) provide better mobility for automobiles, pedestrians and bicyclists, and 2) improve accessibility to major transit hubs. Sidewalks and bicycle facilities must be safe, connect to activity centers, and be accessible to residents. The transportation system as a whole will need to be improved so that all modes of transportation are accessible and competitive with the automobile in terms of travel time, convenience and cost.

(iv) Credit System

To mitigate vehicular trip generations from proposed development projects, credits may be applied for enhancements to pedestrian, bike, and transit systems as well as TDM programs. Mitigations shall be credited through a system that is detailed in the CTR and addresses off-site sidewalks and bike paths, bus shelters, bicycle parking spaces and facilities, and real-time transit information. As data is collected, the credit system will be updated and expanded in the CTR. The amount of credit is applied according to whether or not the development is within a TOA.

(v) Regulatory Implementation

Standards and processes for evaluating adequate LOS as outlined above are detailed in the City's CTR.

III.B. Schools

The Montgomery County Public Schools system has established a method of determining school capacity that it applies and reports as part of its annual Capital Budget Program (MCPS 2002, App. H). In general, the school system uses a planning capacity of 25 students per section for most K-12 students, with



classrooms for special programs considered adequate at capacities ranging from 10 (Special Education Program) to 44 (1/2-day Kindergarten) (see MCPS 2002, App. H, p. H-1), which provides an objective basis for determining building capacity.

Montgomery County, like several other Maryland jurisdictions, determines capacity of a “cluster” of schools.

Montgomery County currently considers that there is available capacity if the cluster of schools is at 100 percent or less of actual physical capacity; Annual Growth Policies before 2003 had used a 110 percent figure.

School demand is based on actual student census in the most recent complete academic year, adjusted for the following: demographic changes, changes in district boundaries and other changes anticipated by planners with Montgomery County Public Schools; additional demand from approved development; additional demand from the specific development being considered for approval. Developers may be required to obtain current certification of school capacities for individual clusters, because the annual figures reported to the Board of Education can rapidly be outdated.

(i) Levels of Service

A determination of the adequacy of public school capacity is based on the following principles:

- The capacities determined annually by the Superintendent of Montgomery County Public Schools, as reported to the Board of Education, shall be used as the capacity basis for the APFO program, based on 100 percent of rated capacity;
- Within the City, capacity is based on a cluster of schools, using the clusters already established by the Montgomery County Public Schools, except that the “borrowing” of capacity from adjacent clusters will not be counted towards the adequacy of school capacity within the City;
- Capacity temporarily taken off-line for rehabilitation and remodeling in accordance with the Montgomery County Public Schools Capital Improvements Program shall be considered available;

- Facilities shown on an adopted Capital Improvements Program with identified sources of funding and planned for completion within 3 years or less shall be considered available;
- Schools shall not be considered over-capacity unless projected demand will cause enrollment in a cluster to exceed 100% of the MCPS calculated capacity of the buildings in the cluster;
- School demand is based on actual student census in the most recent complete academic year, adjusted for the following: demographic changes, changes in district boundaries and other changes anticipated by planners with Montgomery County Public Schools; additional demand from approved development; additional demand from the specific development being considered for approval. Developers may be required to obtain current certification of school capacities for individual clusters, because the annual figures reported to the Board of Education can rapidly be outdated.
- A school cluster is considered over capacity when either of the following occurs:
25% or more of classroom capacity is provided by temporary buildings in one year;
10% or more of classroom capacity has been provided by temporary buildings for 8 of the last 10 years.

(ii) Regulatory Implementation

Note that school clusters in Rockville draw some of their enrollment from outside the City. Thus, for schools, the tracking system for enrollment – both from dwelling units built since the last annual MCPS capacity report and from pipeline projects – must be coordinated with the MCPS administration and Maryland-National Capital Park and Planning Commission to ensure that the accounting includes new demand from outside the City, as well as the demand from within the City.



Capacities are available from the Montgomery County Public Schools annually and will be made available to prospective developers. It will be necessary to conduct a project-specific review for residential development projects simply to compute the projected demand from each development project.

III.C. Fire Protection

Based on Calendar Year 2001 data, the average structure fire response time was 7 minutes and 25 seconds; the average EMS response time was 5 minutes and 56 seconds. Both of these are within the County Fire and Rescue Service goals for response time.

First response to any location in Rockville is possible within established response time goals. A full response calls for the availability of engines from at least 3 separate stations to arrive at the location within 10 minutes. Almost all areas of Rockville are within an 8-minute response time, based on data from the Montgomery County Fire and Rescue Service (MCFRS). A proposed new fire station in the vicinity of Shady Grove Road and Darnestown Road will further reduce the marginally served areas. The City now requires all new residential units to have sprinklers. Therefore, being on the fringe of the full response areas shall not be a determining factor for adequacy of fire protection for new residential development activity. However, certain sensitive types of uses shall likely be subject to such a standard, as much for ambulance/rescue services as for fire protection.

Certain higher-risk uses shall be allowed only where a full response from 3 stations within 10 minutes is possible. Such uses would include schools, hospitals, nursing homes, and places of assembly seating more than 500. Clearly the public risk issues are much greater in dealing with such uses and there is thus a logical basis to require that an optimal fire or EMS response be available to any such use that is established in the future.

(i) Levels of Service

The following higher-risk uses shall be allowed only where a full response from 3 stations within 10 minutes is possible: schools; hospitals; nursing homes; commercial buildings over 3 stories high with no sprinklers; places of assembly seating more than 500.

(ii) Regulatory Implementation

Service areas will be determined based on the latest data provided by MCFRS.

III.D. Water Supply

The APFO requires denial of any development that would create total water demand in the City that would exceed available supply less a reasonable reserve for fire-flow.

(i) Levels of Service

Any proposed development that would create total water demand in the City that would exceed available supply less a reasonable reserve for fire-flow shall not be approved.

Any proposed development for which a minimum fire-flow of 1,000 gallons per minute, or where such fire-flow will not be available from hydrants located within 500 feet of any structure within the development not provided with sprinklers, shall not be approved.

(ii) Regulatory Implementation

Final check-off for adequacy of water service will be determined prior to the issuance of building permits.

III.E. Sewer Service

The APFO provisions require denial of any development project that would cause the City to exceed the transmission capacity in any part of the sewerage system or the treatment capacity available to it at the Blue Plains Treatment Plant or other facilities provided by WSSC.

(i) Levels of Service

Any proposed development that would cause the City to exceed the treatment capacity available to it at the Blue Plains Treatment Plant or other facilities provided by WSSC shall not be approved.

Any development for which transmission capacity in the City or WSSC system to Blue Plains or another treatment facility will not be available concurrently with the anticipated demand shall not be approved.

(ii) Regulatory Implementation

Final check-off for adequacy of water service will be determined prior to the issuance of building permits.

Sources

Annual Growth Policy (AGP), 2002 (Montgomery County, Maryland-National Capital Park and Planning Commission).

Comprehensive Plan. "Comprehensive Master Plan" Planning Commission Approved Draft, January 2002 (supplemented by October 2002 draft of Chapter 4, Transportation).

Hollida, John, P.E. 2003. Civil Engineer II, City of Rockville, Public Works Department; e-mail communication April 14, 2003.

Ierley, Sarah. 2002. (Montgomery County Fire Department). E-mail to District Chief James Resnick, responding to inquiry from Deane Mellander.

Montgomery County Public Schools (MCPS). 2003. "Superintendent's Recommended FY 2004 Capital Budget."

Resnick, James. 2002. District Chief, Montgomery County Fire Department. Meeting November 2002; also included Paul Quigley and others.

Rockville Town Center Master Plan. 2001. "Advisory Group Draft."

Standard Traffic Methodology (STM). Rockville Planning Department, November 1989. Woo, Edwin, P.E. 2003. Civil Engineer II, City of Rockville, Public Works Department; e-mail communication April 14, 2003.

Appendix A: Definitions

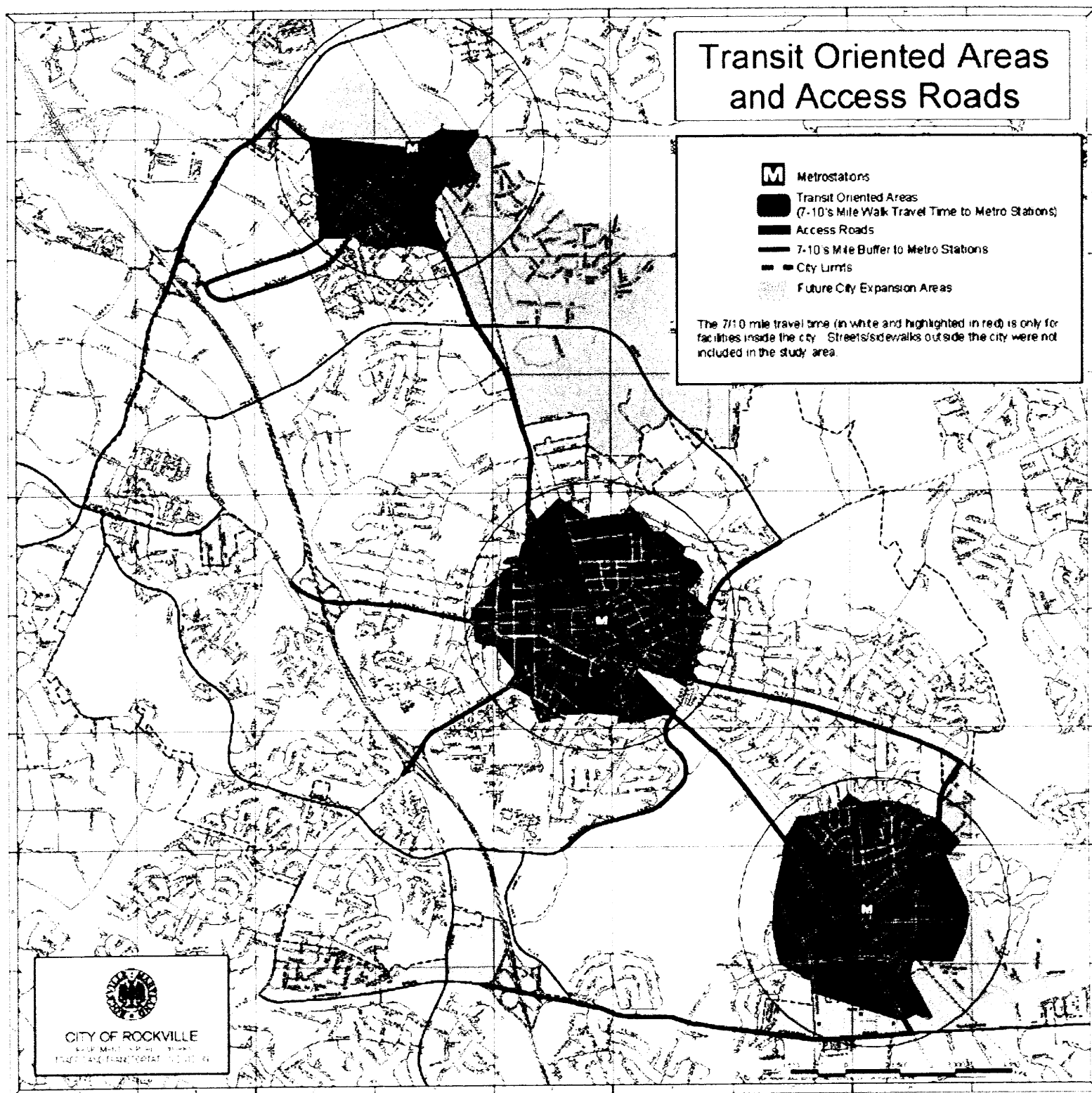
<i>Development Project</i>	Any new development or significant redevelopment project presented to the City after (date of APF adoption).
<i>CTR</i>	Comprehensive Transportation Review describes the process by which to proceed with development or redevelopment within the City. Principles and methodologies explained in the CTR are used by the City to evaluate the transportation impacts of development applications on site access and circulation, multi-modal facilities, and off-site automobile traffic. Mitigation measures to alleviate negative impacts are also addressed.
<i>Transportation Report (TR)</i>	<p>Transportation Report, required by the CTR, is one report that consists of five components:</p> <ul style="list-style-type: none">• Component A: Introduction and Existing Conditions: Project description.• Component B: Site Access & Circulation: Analysis of internal circulation, entrance configurations, truck access and other relevant access and on-site features.• Component C: Multi-Modal Analysis: Analysis of access to alternative modes of transportation available in the respective study area for pedestrian, bicycle, and transit facilities in the multi-modal study area.• Component D: Traffic Analysis: Analysis of auto traffic using the technical guidelines for traffic analysis in the auto study area.• Component E: Summary and Mitigation: Summary of the report findings and recommendations.
<i>Service Commitment</i>	Public facility capacity reserved as part of project approval
<i>TOA</i>	Areas defined as TOAs must include existing or programmed facilities that provide multi-modal access. TOAs include areas 7/10ths of a mile accessible walking distance from existing and programmed Metro and MARC stations and programmed fixed-guideway transit stations on dedicated transit rights-of-way.
<i>TDM</i>	Transportation Demand Management is a general term for strategies that promote alternatives to travel by single occupancy vehicle.
<i>USE</i>	Use Permit
<i>CPD</i>	Comprehensive Plan Development
<i>PDP</i>	Preliminary Development Plan
<i>SPX</i>	Special Exception
<i>PRU</i>	Planned Residential Unit
<i>Subdivision</i>	The creation of lots, either by dividing existing lots or parcels or combining existing lots, for the purpose of new development or redevelopment

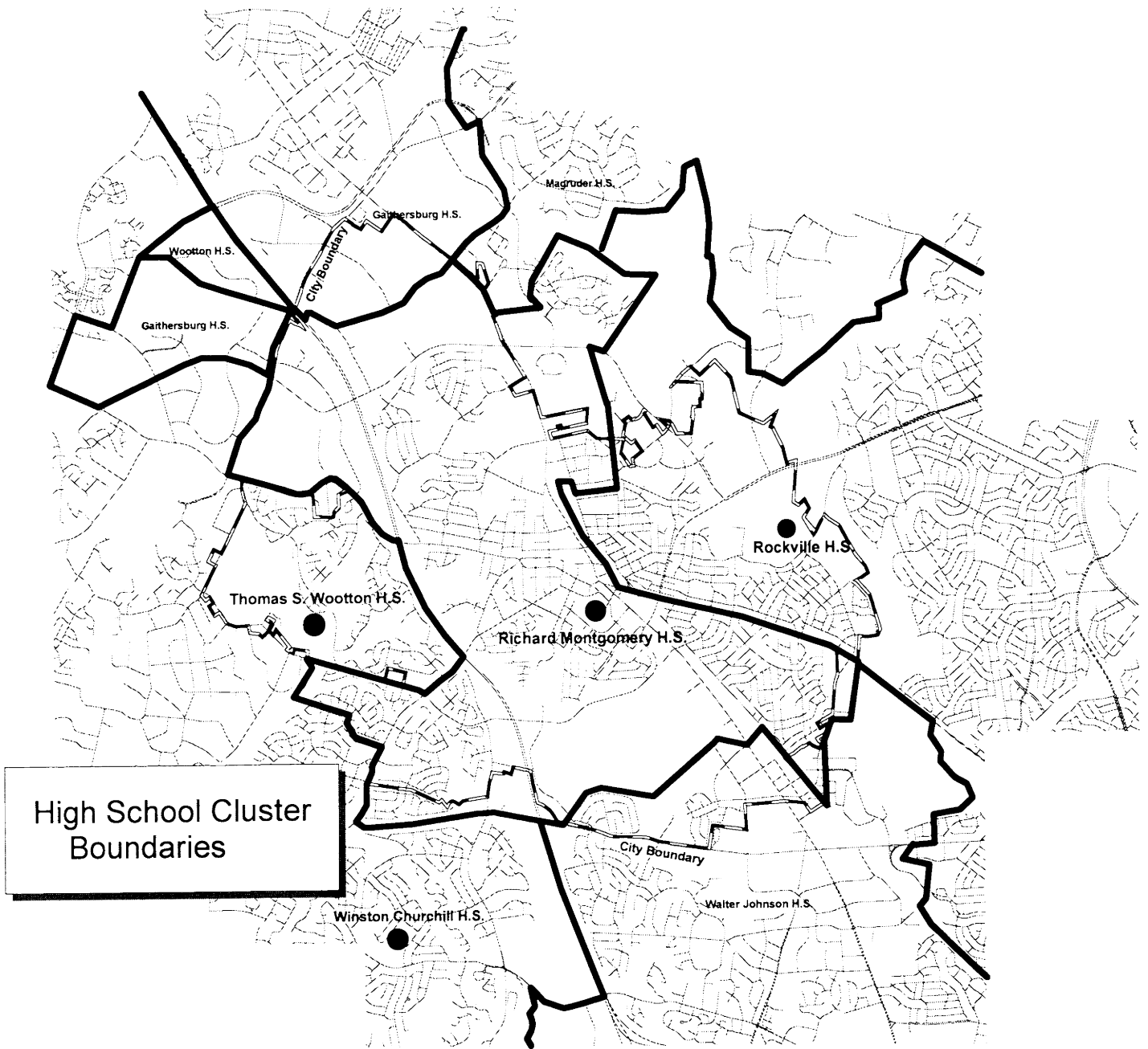
October 24, 2003 Public Hearing Draft

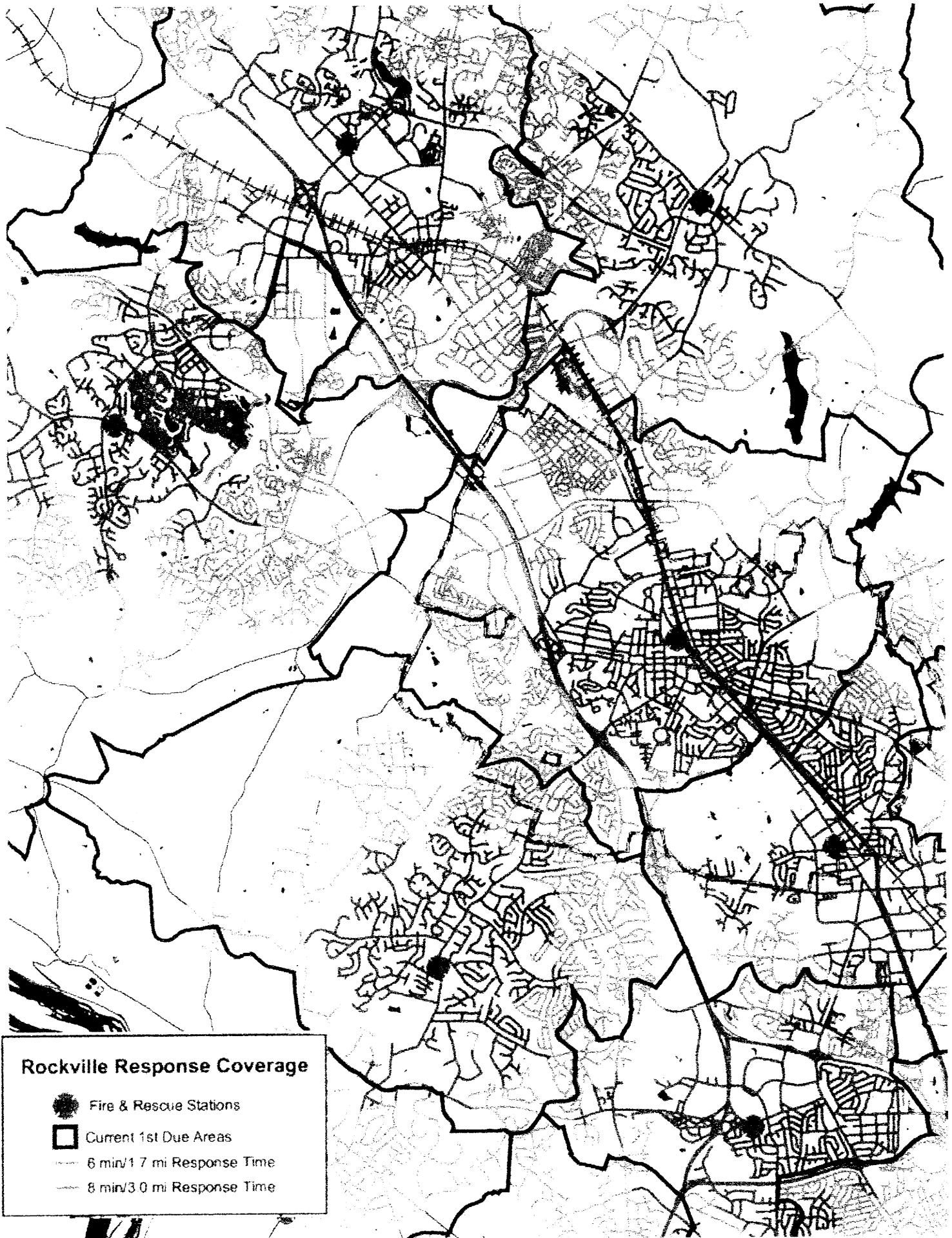
Appendix B: Map of Transit-Oriented Areas

Appendix C: High School Cluster Boundaries Map and School Capacity Projections

Appendix D: Map of Fire and Rescue Service Response Times







ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to insert the following new text into the zoning ordinance
(underlining indicates text to be added; [brackets] indicate text to be deleted):

Amend Section 25-193 as follows:

ARTICLE V. PERMITS

DIVISION 2. USE PERMIT

* * *

Sec. 25-193. Issuance; term, etc.

- (a) A use permit shall be issued if the Planning Commission, the Mayor and Council, or the [Director] Chief of Planning, as the case may be finds that the use proposed in the application will not:
- (1) Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
 - (2) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; or
 - (3) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; or
 - [3] (4) Constitute a violation of any provision of this Chapter or other applicable law.

* * *

Amend Section 25-332 as follows:

ARTICLE VII. ZONING DISTRICT REGULATIONS

DIVISION 3. DEVELOPMENT STANDARDS

* * *

Sec. 25-332. Retail store size limitations and design and site development guidelines for retail stores and shopping centers in the C-2 and RPC Zones.

* * *

- (b) *Design and site development guidelines for certain developments in the RPC and C-2 Zones.*

* * *

- (2) *Site design and relationship to surrounding community.*

* * *

i. *Traffic impacts.* The applicant shall have a [traffic] transportation impact study prepared according to the Standard Traffic Methodology or its successor. [In addition to the general standards of the methodology, t] The [traffic] transportation impact study shall also study intersections within an area designated by the Chief Transportation Engineer to take into account the regional traffic draw of a large-scale retail establishment.

* * *

Amend Section 25-338 as follows:

ARTICLE VIII. SPECIAL EXCEPTIONS

DIVISION 1. GENERALLY

* * *

Sec. 25-338. Standards for granting.

The Board of Appeals [shall] must not grant any petition for a special exception unless it finds from a preponderance of the evidence of record that:

- (1) The proposed use does not violate or adversely affect the Plan, this chapter or any other applicable law; and
- (2) The proposed use at the location selected will not:
 - a. Adversely affect the health and safety of residents or workers in the area; or
 - b. Overburden existing and programmed public [services] facilities as defined in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; or [including water, sanitary sewer, public roads]

- c. Overburden existing and programmed storm drainage and other public improvements; or
 - d. Be detrimental to the use or development of adjacent properties or the neighborhood; or
 - e. Change the character of the neighborhood in which the use is proposed considering service currently required, population density, character, and number of similar uses; and
- (3) The proposed use complies with any requirements of this chapter that are applicable thereto.

* * *

Amend Section 25-492 as follows:

ARTICLE XII. SPECIAL DEVELOPMENT PROCEDURES

DIVISION 1. GENERALLY

* * *

Sec. 25-492. Adequate public facilities.

All development proposed under the provisions of this article must demonstrate that there are adequate public facilities available in accordance with Article XVI to accommodate the proposed development.

* * *

Amend Section 25-510 as follows:

DIVISION 2. VARIABLE LOT SIZE DEVELOPMENT

* * *

Sec. 25-510. Criteria for approval.

The application shall be granted for a variable lot size development if the Planning Commission finds that the proposed development will not:

* * *

(3) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; or

[3] (4) Be inconsistent with the intent or purpose of this article.

Amend Section 25-531 as follows:

DIVISION 3. CLUSTER DEVELOPMENT

* * *

Sec. 25-531. Criteria for granting.

The application for cluster development shall be granted if the Planning Commission finds that the proposed development will not:

* * *

(4) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; or

[4] (5) Be inconsistent with the intent or purpose of this article.

Amend Section 25-562 as follows:

DIVISION 4. PLANNED RESIDENTIAL UNIT DEVELOPMENT

* * *

Sec. 25-562. Required findings of Council on exploratory application.

No exploratory application for planned residential unit development shall be approved by the Council unless the following findings are made:

* * *

(4) That the proposed development will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; and
[(4)] (5) That the proposed development will not be inconsistent with the intent or purpose of this article; and
[(5)] (6) That the proposed development will not overburden existing and programmed storm drainage and other public improvements; and
[(6)] (7) That the C-1 Zone uses proposed in such development are not available within reasonable proximity of the development and are primarily for the service and convenience of the residents of such development.

* * *

Amend Section 25-625 as follows:

DIVISION 6. RESIDENTIAL TOWNHOUSE DEVELOPMENT

* * *

Sec. 25-625. Required findings of Council on exploratory application.

No exploratory application for residential townhouse development filed after November 1, 1997, shall be approved by the Council unless the following findings are made:

* * *

[(5)] (4) That the proposed development will not overburden existing and programmed storm drainage and other public improvements; and
[(6)] (5) That the proposed development complies with the developmental standards and requirements set forth in this division; and
[(7)] (6) That the proposed development enhances the transition between dissimilar uses. The use of appropriate buffering and screening techniques, compatible side design and existing conditions on the site, such as changes in topography and the preservation of existing vegetation, shall also be considered in making the development compatible with the surrounding neighborhood.

* * *

Amend Section 25-655 as follows:

DIVISION 7. COMPREHENSIVE PLANNED DEVELOPMENT

* * *

Sec. 25-655. Required findings of Council on concept plan application.

[No] A concept plan application for comprehensive planned development [shall be] must not be approved by the Council unless the following findings are made:

* * *

(5) That the proposed development complies with any applicable development staging and [adequate public facilities] any requirements as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards.

* * *

Amend Section 25-670 as follows:

DIVISION 8. I-3 OPTIONAL METHOD OF DEVELOPMENT

* * *

Sec. 25-670. Required findings of Council on Preliminary Development Plan Application.

[No] A Preliminary Development Plan Application for development in accordance with the I-3 Optional Method of Development [shall] must not be approved by the Council unless the following findings are made:

* * *

- (4) That the proposed development will not overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage and other public improvements; and
- (5) That the proposed development complies with the development standards and requirements set forth in this division; and
- (6) That the development complies with any applicable development staging [and adequate public facilities] requirements and will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; and

* * *

Amend Section 25-681 as follows:

ARTICLE XIII. TOWN CENTER PLANNING AREA

* * *

Sec. 25-681. Use permit approval.

- (a) All developments in the Town Center Planning Area shall require approval of the use permit application in accordance with division 2 of article V of this chapter, except that the following additional requirements shall apply:
 - (1) The Planning Commission or the Mayor and Council for City-owned land or land purchased by the applicant from the City in the Town Center Performance District shall approve a use permit application only if it finds:
 - a. That the proposed development will be consistent with the Plan;
 - b. That the proposed development will be consistent with the intent and purpose of this article; and

- c. That the proposed development will not overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage and other public improvements; and other existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards.

* * *

Amend Section 25-682 as follows:

Sec. 25-682. Optional method of development.

* * *

- (2) All applicants shall prepare and submit a [traffic] transportation impact study in conformance with the “Standard Traffic Methodology” or its successor and shall provide mitigation of [traffic] transportation impacts which exceed the standards of the STM or its successor [as may be acceptable to the Planning Commission] in accordance with Article XVI of this Chapter and the adopted Adequate Public Facilities Standards;

* * *

Amend Section 25-710 as follows:

ARTICLE XIV. ROCKVILLE PIKE CORRIDOR AREA

* * *

DIVISION 2. SPECIAL REQUIREMENTS RELATING TO USE AND DEVELOPMENT

* * *

Sec. 25-710.27. Optional method of development.

* * *

- (4) Any development that generates more than [one hundred (100)] fifty (50) vehicle trips during any peak hour shall prepare and submit a [traffic] transportation impact study in conformance with the “Standard Traffic Methodology” or its successor contained in the Plan or as may be updated

from time to time, and shall provide mitigation of [traffic] transportation impacts which exceed the standards of the "Standard Traffic Methodology" or its successor [as may be acceptable to the Planning Commission] in accordance with Article XVI of this Chapter and the adopted Adequate Public Facilities Standards

* * *

DIVISION 3. APPROVAL PROCEDURES

Sec. 25-710.31. Use permit approval.

* * *

- (1) The Planning Commission shall approve a use permit application only if the Commission finds:

* * *

- c. That the proposed development will not overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage, other public improvements, and other existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards.

* * *

Sec. 25-710.32. Optional method development.

- (a) The Planning Commission may authorize optional method development only if it determines that the proposed development is in substantial accordance with the Plan and with the intent and purpose of this article, and is compatible with adjacent existing and permitted uses and developments. In making such determination the Commission shall consider:

- (1) Provisions made for [traffic] transportation impact mitigation, open space and other environmental amenities;

* * *

Amend Section 25-727 as follows:

ARTICLE XV. SUBDIVISION REGULATIONS

* * *

DIVISION 2. SUBDIVISION APPROVAL PROCEDURE

* * *

Sec. 25-727. Preliminary plat approval procedure.

e. A preliminary plan shall be approved if the Planning Commission finds that the proposed subdivision will not:

* * *

- (3) Overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage and other public improvements;
- (4) The development will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards;
- [4] (5) Affect adversely the health or safety of persons residing or working in the subdivision or neighborhood;
- [5] (6) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
- [6] (7) Be unsuitable for the type of development, the use contemplated, and available public utilities and services; or
- (8) Unreasonably disturb existing topography, in order to minimize stormwater runoff and to conserve the vegetation cover and soil.

* * *

Insert a new Article XVI, to read as follows:

ARTICLE XVI. ADEQUATE PUBLIC FACILITIES

DIVISION 1. GENERALLY

Sec. 25-800. Adequate public facilities standards.

(a) The Mayor and Council shall adopt by resolution, after public hearing, Adequate Public Facilities Standards. These standards will establish the method used by the City to ensure that the necessary public facilities will be available to serve proposed new development or redevelopment. The Mayor and Council will periodically review the Adequate Public Facilities Standards and modify them as deemed necessary. Any development or redevelopment proposed within the City after the effective date of this Article must comply with all requirements of the Adequate Public Facilities Standards.

Sec. 25-801. Applicability.

- (a) A use permit, preliminary plan of subdivision, special exception, or any development under a special development procedure must not be approved unless the Mayor and Council, the Planning Commission, the Board of Appeals, or the Chief of Planning, as the case may be, determines that public facilities will be adequate to support and service the area of the proposed development. Public facilities and services to be examined for adequacy will include but not necessarily be limited to roads and public transportation facilities, sewerage and water service, schools, and fire protection.
- (b) The applicant for a use permit, preliminary plan of subdivision, special exception, or any development under a special development procedure must, at the request of the Mayor and Council, the Planning Commission, the Board of Appeals, or the Chief of Planning, as the case may be, submit sufficient information and data on the proposed development to demonstrate the expected impact on and use of public facilities and services by possible uses of said development. Utilizing the most recent public facilities assessment, the applicant must demonstrate mitigation measures designed to alleviate any adverse impact on public facilities deemed inadequate in the public facilities assessment as set forth in the Adequate Public Facilities Standards.
- (c) The Adequate Public Facilities Standards will establish *de minimis* standards for various factors such that any proposed development that does not exceed the *de minimis* standards may proceed without a further requirement to satisfy the adequate public facilities determination.
- (d) The following are exempt from the provisions of the Adequate Public Facilities Standards:
 - 1. An application to implement an approval that was approved after (effective date) and retains a valid adequate public facilities certification is not subject to further adequate public facilities approvals except for water and sewer service, which is confirmed prior to the issuance of a building permit.
 - 2. An application to implement a valid special exception, use permit or preliminary plan of subdivision that was approved prior to (effective date) is not subject to the Adequate Public Facilities Standards except for water and sewer service, which is confirmed prior to the issuance of a building permit.

Sec. 25-802. Issuance: term, recertification, etc.

- (a) A finding of adequate public facilities shall have the following validity period to correspond with the validity period of the underlying development approval:
1. Use Permit:
 - a. Two (2) years from the date of issuance of the Use Permit for an individual building; or
 - b. Eight (8) years from the date of issuance of the Use Permit for a multiple building development.
 2. Special Exception: Eighteen (18) months from the date of issuance of the special exception.
 3. Special Development Procedures (Variable Lot Size, Cluster Development, Residential Townhouse, Planned Residential Unit, I-3 Optional Method of Development):
 - a. One (1) year from the date of approval of the exploratory application or until a detailed application is approved, whichever first occurs.
 - b. Ten (10) years for the implementation of all detailed applications from the date of the approval of the exploratory application.
 4. Subdivision – two (2) years from the date of approval until the date of recordation. Recordation of a plat constitutes an adequate public facilities commitment for a one-family detached residential lot.

Time Extensions.

- (a) For good cause shown, the original approving body may approve no more than two (2) extensions not exceeding one (1) year each. The extensions may not exceed the validity period of the underlying application, including any time extensions that may be granted. In the case of a special exception, the Board of Appeals may approve no more than two (2) extensions not exceeding six (6) months each.
- (b) For good cause shown, the Mayor and Council may approve no more than two extensions not exceeding one (1) year each. The extensions may not exceed the validity period of the underlying application.

Reevaluation and Recertification.

Upon expiration of an adequate public facilities approval, recertification may be granted by the original approval body. The recertification shall be based on the results of an updated analysis of the impact on the public facilities, consistent with the Adequate Public Facilities Standards. The analysis shall include an evaluation of the net remaining development with credits applied for infrastructure that has been provided in conjunction with the development. If the reevaluation indicates that existing and programmed public facilities will be overburdened, then mitigation of said impacts shall be required.

Sec. 25-803. Applicability to previously approved projects.

- (a) Development approved under a special development procedure (CPD, PDP, RTH, PRU, Cluster Development, Variable Lot Size, I-3 Optional Method of Development) is subject to review and implementation of adequate public facilities as specified in the following provisions. The length of time for which facilities are deemed adequate under these approvals may vary for each public facility. The validity period for determining the adequacy of public facilities is as follows:
 - (1) The number of years specified in the original approval, if explicitly stated;
or
 - (2) If the original approval does not specify the number of years that public facilities are deemed adequate, the validity period ends fifteen (15) years from (effective date of APFO) if all required public improvements have not been provided. If all required public improvements have been provided, an additional 5 years shall be granted.
- (b) The Mayor and Council may approve up to two (2) five-year extensions to implement the approved development when the applicant demonstrates that development of the property has proceeded with due diligence but that factors beyond the control of the developer such as a economic conditions or change in governmental regulations have precluded development of the property within the approved time frame or the project is substantially complete.
- (c) If the adequate public facility approval is no longer valid, then the development must retest the relevant public facilities, with credit for provided facilities, prior to approval of subsequent detailed applications, use permits, or final record plats.



City of Rockville

MEMORANDUM

July 25, 2005

TO: Mayor and Council

THROUGH: Scott Ullery, City Manager *SU*

FROM: Art Chambers, Director, CPDS *ADC*

SUBJECT: Adequate Public Facilities Ordinance

This memorandum is a follow-up to the information we provided to you last week about the Adequate Public Facilities Ordinance (APFO). It seems to be an appropriate time to review a few basic concepts to facilitate the upcoming discussion. Given the significance and complexity of preparing and adopting an APFO, it is easy to focus on individual components rather than the larger growth management issues. Sometimes the primary purpose or intent of the discussion can be lost in the minute details of developing the ordinance. The key concepts flow from the premise that an Adequate Public Facilities Ordinance is a growth management tool that links the approval of new development to the availability and adequacy of public facilities. When considering an APFO, the six key concepts that must be considered are:

- An APFO ordinance is not designed to stop development or new growth.
- A City of Rockville APFO will not manage regional growth outside of Rockville.
- There are strong linkages between the Comprehensive Plan and its implementing programs that include the Capital Improvement Program (CIP), Zoning ordinance, and Adequate Public Facilities Ordinance.
- Localities must fund their CIP to provide the additional capacity needed for "adequacy".
- An APFO is not a downzoning.
- The facilities analysis is a snap shot in time and is not dynamic.

1. AN APFO ORDINANCE IS NOT DESIGNED TO STOP DEVELOPMENT OR NEW GROWTH

To ensure that public facilities are adequate and in place prior to new development being constructed, many cities and counties enacted APFOs. APFOs are not intended to stop new development, rather they provide for the phasing of public improvements to coincide with new development. The enactment of an APFO and the subsequent review of public facilities ensure that new development will not adversely affect public health, safety and welfare. It directs new growth to areas where facilities are adequate and identified in the Comprehensive

Plan, and allows for developers to mitigate project impacts by upgrading public facilities. An APFO also identifies where deficiencies are occurring and provides guidance on where and how to allocate CIP funds to construct new capacity. Underlying an APFO is an assumption that additional capacity will be provided in the near future to allow the development to proceed.

2. A CITY OF ROCKVILLE APFO WILL NOT MANAGE REGIONAL GROWTH OUTSIDE OF ROCKVILLE

The Metropolitan Washington Council of Government's regional growth forecasts for employment, population, and households all indicate that the region will continue to experience growth in all three areas. With this regional growth, come new residents, traffic, and school children, ultimately impacting the level of service (LOS) for roads and schools. The City of Rockville will experience the impacts of this regional growth due to its proximity to I-270, three metro stations, and inclusion within Montgomery County's Priority Funding Area.

The adoption of an APFO by the City will not alter regional growth trends; however, it may redistribute it to areas outside the city. Montgomery County has an APFO that was adopted in 1973 and is reviewed each year through their "Annual Growth Policy" report. Montgomery County controls when and how growth will occur around the City of Rockville through their land use plans, zoning regulations, CIP and review of the Educational Facilities Master Plan.

An APFO for schools is especially challenging since new school capacity is ultimately decided by Montgomery County through the adoption of their CIP. Construction needs for new school capacity is identified by the Montgomery County Public Schools (MCPS) through their Educational Facilities Master Plan. This plan is a six year capital improvement program for the school system and is dependent on County and State funding. While the City of Rockville is part of this system, it does not participate in the formulating the MCPS CIP budget or the attendance zones. The attendance zone boundaries for school clusters are cross jurisdictional lines and are determined by the MCPS. Also, changes in state standards and regulations can have unintended consequences on APFO standards. This occurred, for example, when the state instituted full day kindergarten standards for the state school system. This resulted in reduced elementary school capacity in many jurisdictions.

Transportation facilities are also cross jurisdictional boundaries. Traffic, generated on county and state facilities by development well outside the city, also impacts the city's transportation network.

3. THERE ARE STRONG LINKAGES BETWEEN THE COMPREHENSIVE PLAN AND ITS IMPLEMENTING PROGRAMS THAT INCLUDE THE CAPITAL IMPROVEMENT PROGRAM (CIP), ZONING ORDINANCE, AND ADEQUATE PUBLIC FACILITIES ORDINANCE

The Rockville Comprehensive Plan, adopted November 12, 2002, which includes the Town Center Master Plan amendment, adopted October 22, 2001, sets forth the vision for

development and redevelopment within the city and town center. The master plan provides the policy framework and legal reference for the development of new zoning regulations, capital improvement programs and supporting ordinances such as the APFO and subdivision regulations. Through the Comprehensive Plan Land Use Plan Map, Transportation Map, and Public Facilities Map, a community identifies future facilities such as new roads, transit facilities, sewer improvements, road upgrades and other facilities that are required to implement the land use goals of the Comprehensive Plan. Implementing the vision identified in the Comprehensive Plan requires a strong link to the CIP. An effective APFO requires these projects be programmed into the CIP program for construction. The ability to successfully carry out the CIP program is a function of the levels of service deemed "adequate" and the availability of sufficient funding.

4. LOCALITIES MUST FUND THEIR CIP PROGRAM TO PROVIDE ADDITIONAL CAPACITY NEEDED FOR "ADEQUACY"

Implementation of an APFO ordinance requires communities to make a commitment to program additional capacity and to fund those improvements. If communities are not willing to fund CIP projects, then communities will need to evaluate their LOS standards and goals for specific areas. More importantly, they would need to address the potential for additional growth. It may be necessary to lower the level of service or in some cases, such as town centers and urban areas to waive the traffic APFO requirement altogether. A higher level of congestion may be acceptable when striving to encourage town centers and mixed use areas. An APFO ordinance could face a legal challenge if a locality does not program capacity improvements into their CIP budgets.

5. AN APFO IS NOT A DOWNZONING

If communities are not willing to provide the necessary infrastructure either through their CIP or mitigation, then instead of an APFO, downzoning of residential and commercial densities should be considered to reduce the impact of new development on public infrastructure. Basically this means that if no new capacity will be provided, then the potential for new development needs to be reduced by either downzoning and reducing permitted residential densities and floor area ratios in the city or changing the level of service standards.

6. THE FACILITIES ANALYSIS IS ONLY A SNAP SHOT IN TIME (*STATIC NOT DYNAMIC ANALYSIS*)

An APFO ordinance evaluates the impacts of a specific development on the facilities *at a given moment*, taking into account existing development, pipeline development, projected growth, and capacity of public facilities identified in the CIP. Given the nature of this evaluation, it is important to recognize that many external factors are beyond a jurisdiction's control and should be taken into account when deciding which facilities to include in an APFO ordinance.

The impact of new construction may not be readily seen by a community for many years. Large scale residential development projects are often constructed in phases and their full

Page 4

7/25/2005

impact may not be seen for years while growth outside the city will continue impacting roads, schools and other facilities. Community values/perception may change which could affect the establishment of the thresholds. Changing acceptable measures and thresholds will alter "capacity".

If you have any questions, please do not hesitate to contact me on ext. 8202.

cc: Paul Glasgow, City Attorney
Deane Mellander, CPDS
Kipling Reynolds, CPDS
Richard Romer, City Manager's Office

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City of Rockville

MEMORANDUM

July 15, 2005

TO: Mayor and Council
THRU: Scott Ullery, City Manager
FROM: Art Chambers, Director, CPDS
SUBJECT: Adequate Public Facilities Ordinance: August 1, 2005 work session

In response to questions about the Adequate Public Facilities Ordinance (APFO) from council members on the APFO, I am forwarding the Duncan Associates report of **April 2003 Adequate Public Facilities Regulations: Analysis and Recommendation** for the agenda package. This report was previously reviewed by the Mayor and Council at their May 5, 2003 meeting. It provides a good description and discussion of APFO's in terms of intent, impacts, etc. It also reviews the city's current practices regarding development. Additional background material will be forwarded next week. The agenda sheet for the August 1, 2005 work session will include maps, measures, discussion of impacts, etc.

The following is a brief history of the legislative history of the APFO. If anyone would like copies of past agenda sheets, reports, minutes, please let me know. A more extensive list is also attached.

- ▶ June 17, 2002 Mayor/Council Work session: Introduction of APFO's and discussion of Rockville's APFO goals.
- ▶ July 9, 2002 Mayor/Council Work session: Discussion of the APFO goals for Rockville.
- ▶ April 2003: Final Report. Adequate Public Facilities Regulations: Analysis and Recommendations, Rockville, Maryland by Duncan Associates.
- ▶ May 20, 2003: Mayor/Council Meeting: Continuation of work session to review Duncan Report and provide direction to staff on the preparation of an APF Ordinance. Report by Public Works on Adequate Transportation Facilities.

- ▶ December 11, 2003 memo from the Planning Commission to Mayor and Council transmitting a negative recommendation on the proposed APFO facilities standards.
- ▶ December 15, 2003 Mayor/Council Public Hearing on the APFO ordinance was postponed.
- ▶ October 4, 2004. Comprehensive Transportation Review Methodology (hereafter referred to as “CTR”), approved by the Mayor and Council.
- ▶ June 20, 2005 Mayor/Council Meeting discuss APF Ordinance and related text amendments and set the public hearing date.

If you have any questions, please do not hesitate to contact me on ext.8202.

cc: Deane Mellander, Planner III

Attachments (2)

- April 2003: Adequate Public Facilities Regulations: Analysis and Recommendations, Rockville, Maryland. Final Report
- Legislative History of the APFO Ordinance

Legislative History of the APFO Ordinance
July 14, 2005

2002

- ▶ June 17, 2002 Mayor/Council Work session: Introduction of APFO's and discussion of Rockville's APFO goals.
- ▶ July 9, 2002 Mayor/Council Work session: Discussion of the APFO goals for Rockville.
- ▶ November 6, 2002 Mayor/Council Work Session: Briefing from staff and Duncan Associates on the development of an APFO Ordinance.

2003

- ▶ **April 2003: Final Report: Adequate Public Facilities Regulations: Analysis and Recommendations Rockville, Maryland by Duncan Associates.**
- ▶ May 5, 2003: Mayor/Council Meeting: Work session to review Duncan Associates report and provide direction to staff on the preparation of an APF Ordinance.
- ▶ May 20, 2003: Mayor/Council Meeting: Continuation of work session to review Duncan Report and provide direction to staff on the preparation of an APF Ordinance. Report by Public Works on Adequate Transportation Facilities.
- ▶ October 13, 2003 Mayor/Council Work session to discuss APFO, update on Montgomery County's Annual Growth Policy, schools test and applicability to Comprehensive Planned Developments. 10/8/03 Agenda package included the Final Draft APFO Ordinance, dated October 8, 2003.
- ▶ October 24, 2003 APF Standards, Public Hearing Draft.
- ▶ November 6, 2003: Memo to Jeff Zyontz, Montgomery County Department of Planning and Zoning that provides an overview of the City's Draft APF Ordinance, dated November 13.
- ▶ November 12, 2003: Memo to Rockville Planning Commission on Proposed Zoning Text Amendment to require APF in connection with development.
- ▶ December 4, 2003: Memo to Rockville Planning Commission transmitting supplemental Material on APFO for Schools and grandfathering provisions.

- ▶ December 11, 2003 memo from the Planning Commission to Mayor and Council transmitting a negative recommendation on the proposed APFO facilities standards.
- ▶ December 15, 2003 Mayor/Council Public Hearing on the APFO ordinance was postponed.

2004

- ▶ October 4, 2004. Comprehensive Transportation Review Methodology (hereafter referred to as “CTR”), approved by the Mayor and Council.

2005

- ▶ January 19, 2005 Memo to the City Manager transmitting the APFO Public Hearing Package that was to be held on December 15, 2003.
- ▶ June 20, 2005 Mayor/Council Meeting to discuss APF Ordinance and related text amendments and set the public hearing date.

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MAYOR AND COUNCIL AGENDA

NO. 7 DEPT.: Community Planning & Development Services/Legal DATE PREPARED: 6/15/05
STAFF CONTACT: Deane Mellander, Acting Chief of Planning FOR MEETING OF: 6/20/05

SUBJECT: Discussion of Adequate Public Facilities Ordinance and related zoning text amendment

RECOMMENDATION: Provide staff with recommended amendments, if any, to the proposed APFO. Also provide direction on setting a public hearing date to consider the APFO and related text amendment.

DISCUSSION: The City contracted with Duncan Associates in the fall of 2002 to study the City's current development review program and provide guidance and recommendations on how various components of the public facilities programs may be integrated into a comprehensive APFO ordinance. The consultant's report became the basis for the proposed APFO recommendations. APFO recommendations for traffic impacts and school capacity have the greatest likelihood of affecting the timing of development approvals. The APFO also evaluates water, sewer, and fire/rescue service adequacy. Since the initial work on the APFO in October, 2004, the City adopted the Comprehensive Transportation Review process that replaced the Standard Traffic Methodology. The CTR better accounts for alternative transportation measures such as pedestrians, bicycles, buses, etc. Within the context of the CTR, the APFO will allow consideration of differing traffic levels of service within Transit-Oriented Areas (TOA's) and the application of adequate public facility standards for alternative modes including bicycles, mass transit, and pedestrians. The adoption of the CTR program accomplished a significant portion of the proposed APFO. Any revisions to the APFO will incorporate the CTR in its final form.

The draft APFO provides recommended levels of service standards for school capacity, fire protection, and water and sewer service. These are in addition to the transportation standards that have been generally incorporated into the CTR program. The two primary issues that may need additional discussion are the standards that will be established for school capacity and to what extent the APFO will apply to the approved comprehensive planned developments that have already been approved and are in the midst of development.

Schools: Currently, school capacity is not measured for every application. Data on the current school enrollment forecasts and background on forecasting methodology are attached to the staff report to the Planning Commission (circle page 37). A map of the high school clusters is shown at Appendix C of the APFO Standards document (circle page 19). The City has no direct jurisdiction over the provision of public school capacity. However, many of the schools that serve the City are at or beyond rated capacity. The rated capacity of the schools needs to be considered, including whether or not to count portable classrooms, and whether to use 105% or 110% of rated capacity as a threshold. The considerations need to be weighed against the current and pending developments in the City.

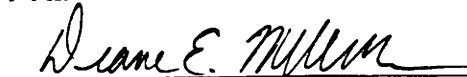
Comprehensive Planned Developments: The APFO proposes that any new multi-phase development project include a development schedule as a binding element of the approval. This is intended to prevent projects from tying up development capacity indefinitely. However, most of the approvals for the existing CPDs were conditioned on the provision of public improvements to accommodate the development. In general, these conditions have been, or are being met. At the same time, no deadlines were established for completion of the projects. The attached APF Standards document and proposed text amendment contain a schedule that allows these projects 15 years from the date of approval of the APFO to complete installation of required public facilities. If the required facilities are not available, then the project will become subject to the APF standards. If the facilities have been provided, the project will have an additional 5 years to complete build-out, plus two 5-year discretionary extensions for good cause shown.

At this point, staff needs direction from the Mayor and Council on any desired modifications that they believe necessary, and a schedule for moving forward to a public hearing. The Planning Commission initially reviewed the text amendment and the staff recommendations at its meeting on December 10, 2003. Their recommendation is shown at attachment 3 (circle page 34). Any substantive revisions to the APFO or the text amendment will need to be reviewed by the Planning Commission prior to the public hearing. The next Planning Commission meeting where this matter could be reviewed is scheduled for July 13, 2005.

Boards and Commissions Review: The Planning Commission will review the proposed ordinance, if there are substantive changes, and provide a recommendation to the Mayor and Council prior to the public hearing. The Planning Commission's comments and recommendations on the current draft are shown on attachment 3 (circle page 34).

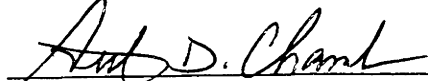
Next Steps: Set a public hearing date. The staff recommends that the hearing date be set for August 1, 2005. This provides for a thirty day notice period. Since this matter has not been actively discussed for some time, the notice time should be provided to let all the interested parties review the materials in a timely manner to prepare for the hearing.

PREPARED BY:



Deane Mellander, Acting Chief of Planning

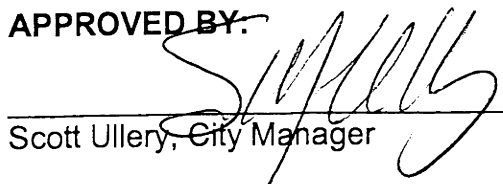
APPROVED BY:



Arthur D. Chambers, AICP, Director, CPDS

6/15/05
Date

APPROVED BY:



Scott Ullery, City Manager

6/16/05
Date

LIST OF ATTACHMENTS:

1. Adequate Public Facilities Ordinance -- Public hearing draft 10/24/03 (circle page 1).
2. Proposed zoning text amendment to implement the APFO (circle page 21).
3. Planning Commission recommendation of December 11, 2003 ((circle page 34).
4. Staff report to the Planning Commission of November 12, 2003 (circle page 37).